



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3512

Introduced 2/14/2014, by Sen. Andy Manar

SYNOPSIS AS INTRODUCED:

New Act

Creates the Disease Testing for Public Safety Officials and Volunteers Act. Provides that an emergency services provider or first aid volunteer who is significantly exposed to blood or body fluids during the course of performing his or her duties or during the course of performing emergency assistance or first aid may: (1) request that the person to whom the emergency services provider or first aid volunteer was significantly exposed voluntarily submit to testing for the presence of communicable disease; or (2) petition the circuit court for an order requiring that the person to whom the emergency services provider or first aid volunteer was significantly exposed submit to testing to determine the presence of a communicable disease and that the results of that test be disclosed to the petitioner by the Department of Public Health. Provides that the circuit court may enter an order requiring that a person submit to testing, including blood testing, for a communicable disease if the court finds probable cause to believe: (1) the petitioner was significantly exposed; and (2) the exposure occurred during the course of the emergency services provider's duties, or the provision of emergency assistance or first aid by a first aid volunteer. Provides that any person or entity entitled to receive confidential information under the Act, other than the person tested and identified in the information, who violates the provisions of the Act by releasing or making public that confidential information, or by otherwise breaching the confidentiality requirements of the Act, is guilty of a Class B misdemeanor. Effective immediately.

LRB098 19554 MRW 54742 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Disease Testing for Public Safety Officials and Volunteers Act.

6 Section 5. Definitions. As used in this Act:

7 "Blood or body fluids" means blood, saliva, amniotic fluid,
8 pericardial fluid, peritoneal fluid, pleural fluid, synovial
9 fluid, cerebrospinal fluid, semen, and vaginal secretions, and
10 any body fluid visibly contaminated by blood.

11 "Certified local health department" means a health
12 department of a unit of local government that is certified
13 under Section 600.210 of Part 600 of Title 77 of the Illinois
14 Administrative Code (77 Illinois Administrative Code 600.210).

15 "Communicable disease" means a disease that can be
16 transmitted from person to person directly or indirectly,
17 including diseases transmitted by blood or body fluid or any
18 other communicable reportable diseases as established by the
19 Department in Section 6.08 of the Hospital Licensing Act.

20 "Department" means the Department of Public Health.

21 "Emergency service provider" means a local, State, or
22 federal peace officer, firefighter, emergency medical
23 technician-ambulance, emergency medical

1 technician-intermediate, emergency medical
2 technician-paramedic, ambulance driver, or other medical or
3 first aid personnel rendering aid, or any agent or designee of
4 the foregoing.

5 "First aid volunteer" means a person who provides voluntary
6 emergency assistance or first aid medical care to an injured
7 person prior to the arrival of an emergency medical services
8 provider or public safety officer.

9 "Significant exposure" or "significantly exposed" means:

10 (1) exposure of the body of one person to the blood or
11 body fluids of another person by:

12 (A) percutaneous injury, including a needle stick,
13 cut with a sharp object or instrument, or a wound
14 resulting from a human bite, scratch, or similar force;
15 or

16 (B) contact with an open wound, mucous membrane, or
17 non-intact skin because of a cut, abrasion,
18 dermatitis, or other damage; or

19 (2) exposure that occurs by any other method of
20 transmission as defined by the Department.

21 Section 10. Petition.

22 (a) An emergency services provider or first aid volunteer
23 who is significantly exposed during the course of performing
24 his or her duties or during the course of performing emergency
25 assistance or first aid may:

1 (1) request that the person to whom the emergency
2 services provider or first aid volunteer was significantly
3 exposed voluntarily submit to testing; or

4 (2) petition the circuit court for an order requiring
5 that the person to whom the emergency services provider or
6 first aid volunteer was significantly exposed submit to
7 testing to determine the presence of a communicable disease
8 and that the results of that test be disclosed to the
9 petitioner by the Department.

10 (b) The petitioner shall file a petition with the circuit
11 court seeking an order to submit to testing and to disclose the
12 results in accordance with the provisions of this Section. The
13 petition shall be sealed upon filing and made accessible only
14 to the petitioner, the subject of the petition, and his or her
15 attorneys, upon court order.

16 (c) The petition described in subsection (b) shall be
17 accompanied by an affidavit in which the petitioner certifies
18 that the petitioner has been significantly exposed to the
19 person who is the subject of the petition and describes that
20 exposure. The petitioner shall submit to testing to determine
21 the presence of a disease when the petition is filed or within
22 3 days after the petition is filed.

23 (d) The petitioner shall cause the petition required under
24 this Section to be served on the person who the petitioner is
25 requesting to be tested in a manner that will best preserve the
26 confidentiality of that person.

1 (e) The court shall set a time for a hearing on the matter
2 within 10 days after the petition is filed and shall give the
3 petitioner and the person who is the subject of the petition
4 notice of the hearing at least 72 hours prior to the hearing.
5 The person who is the subject of the petition shall also be
6 notified that he or she may have an attorney present at the
7 hearing and that his or her attorney may examine and
8 cross-examine witnesses. The hearing shall be conducted in
9 camera.

10 (f) The circuit court may enter an order requiring that the
11 person submit to testing, including blood testing, for a
12 communicable disease if the court finds probable cause to
13 believe:

14 (1) the petitioner was significantly exposed; and

15 (2) the exposure occurred during the course of the
16 emergency services provider's duties or the provision of
17 emergency assistance or first aid by a first aid volunteer.

18 (g) The court may order that the specimen be obtained by
19 the use of reasonable force if the person who is the subject of
20 the petition is incarcerated.

21 (h) The court may order that additional testing be
22 conducted and that the person submit to that testing, as it
23 determines to be necessary and appropriate.

24 (i) The court is not required to order the person to submit
25 to a test under this Section if it finds that there is a
26 substantial reason, relating to the life or health of the

1 person, not to enter the order.

2 (j) Upon order of the circuit court that a person submit to
3 testing for a communicable disease, that person shall report to
4 the designated certified local health department within 10 days
5 from the issuance of the order, and thereafter as designated by
6 the court, or be held in contempt of court. The court shall
7 send the order to the Department and to the certified local
8 health department ordered to conduct the test. The Department
9 and a certified local health department may disclose the test
10 results under a court order as provided in this Section.

11 (k) The certified local health department or the Department
12 shall inform the subject of the petition and the petitioner of
13 the results of the test and advise both parties that the test
14 results are confidential. That information shall be maintained
15 as confidential by all parties to the action.

16 (l) The court, its personnel, the process server, the
17 Department, certified local health department, and petitioner
18 shall maintain confidentiality of the name and any other
19 identifying information regarding the person tested and the
20 results of the test except as specifically authorized by this
21 Act.

22 (m) Except as provided in this subsection, the petitioner
23 shall remit payment for the testing and the analysis of the
24 specimen for the mandatory disease testing to the entity that
25 conducts the test. If the petitioner is an emergency services
26 provider, the agency that employs the emergency services

1 provider shall remit payment for the testing and the analysis
2 of the specimen for the mandatory disease testing to the entity
3 that conducts the test.

4 (n) The entity that conducts the test shall cause the
5 specimen and the payment for the analysis of the specimen to be
6 delivered to the Department for analysis.

7 (o) If the subject of the petition is incarcerated, the
8 incarcerating authority shall either collect the specimen or
9 shall pay the expenses of having the person's specimen
10 collected.

11 Section 15. Confidentiality of test results. Any person or
12 entity entitled to receive confidential information under this
13 Act, other than the person tested and identified in the
14 information, who violates any provision of this Act by
15 releasing or making public that confidential information, or by
16 otherwise breaching the confidentiality requirements of this
17 Act, is guilty of a Class B misdemeanor.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.